IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

APPEAL FROM ORDER NO. 826 OF 2004

Manohar Jagde & anr. ... Appellants

V/s

Chandravati Chandrakant & ors. ... Respondents

Mr. S. J. Paradkar for the appellants.

Mr. Robert C. Sequera for the respondents.

CORAM: P.V. KAKADE, J.

DATED: 20TH SEPT., 2004.

P.C.:

1. Heard advocate for the appellants. Learned counsel for the respondents waives service. Respondent - defendant No.1 did not appear in the suit.

2. Rule. Rule made returnable forthwith by consent.

3. The plaintiffs filed S.C. Suit No. 2756 of 2002 against the defendants on the ground that defendants 2, 3 & 4 are trespassers in the suit premises. The relationship amongst parties is that plaintiff No.1 is mother and plaintiffs 2, 3, 4 and defendant No.1 are sons. In the course of the suit, notice of motion was

moved by the plaintiffs in order to seek injunction restraining defendants 1, 2, 3 and 4 and their servants, agents from inducting any person in the suit premises i.e. Palyekar Chawl, Outpost, Near Military Camp, Santacruz (East), Mumbai - 400 029.

4. After hearing the notice of motion on merits, the learned Judge came to the conclusion that defendants 2 & 3 were prima facie found to be trespassers and, therefore, directed them to remove themselves from Room No.3 of the suit premises within 15 days with all their bags and baggages restraining from interfering with peaceful possession and enjoyment of the plaintiffs and their privacy. In the alternative, it was directed that they shall deposit the amount of Rs.3,25,000/-, which they allegedly agreed to pay to defendant No.1 under an unregistered agreement.

5. However, after hearing both parties for some time and on perusal of the record, I am satisfied that no interim relief need be granted at this stage to the appellants - defendants 2 & 3, instead of that, it was suggested at the bar that the lower Court should be directed to expedite the hearing of the suit instead of admitting the appeal and expediting its hearing.

In view of this position, it is hereby directed that the learned Trial Judge shall adjudicate the dispute in suit on merits after giving opportunity to both parties as early as possible and at any rate within six months from the date of this order. However, it is clarified that no interim relief is hereby granted in the appeal and the matter shall stand as it is on the basis of order dated 7.9.2004 passed in the notice of motion against which the present appeal is filed.

With these directions, the appeal stands disposed of. Consequently, the C.A. No. 1129 of 2004 also stands disposed of with no order as to costs.

C. c. expedited.

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